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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

(HONORABLE LARRY A. BURNS)

UNITED STATES OF AMERICA,

Plaintiff,

v.

GENARO SMITH-BALTIHER,

Defendant.

Case No. 07CR3161-LAB

DATE: January 7, 2008
TIME: 2:00 p.m.

NOTICE OF MOTIONS *IN LIMINE* AND MOTIONS *IN LIMINE*:

1) TO EXCLUDE DEPORTATION DOCUMENTS;
2) TO ADMIT HEARSAY EVIDENCE OFFERED BY FAMILY MEMBERS AS TO THE BIRTH OF OTHER FAMILY MEMBERS RELEVANT TO MR. SMITH-BALTIHER'S DERIVATIVE CITIZENSHIP
3) TO PROHIBIT EVIDENCE UNDER FED. R. EVID. 404(B) AND 609;
4) TO EXCLUDE WITNESSES (A-FILE CUSTODIAN);
5) TO ALLOW ATTORNEY-CONDUCTED VOIR DIRE;
6) TO PROHIBIT WITNESSES FROM REFERRING TO MR. SMITH-BALTIHER AS “THE ALIEN”;
7) PRODUCE GRAND JURY TRANSCRIPTS;
8) TO SUPPRESS THE DEPORTATION HEARING AUDIOTAPE OR TRANSCRIPT;
9) TO PRECLUDE EVIDENCE OF REINSTATEMENTS; AND
10) ALLOW LEAVE TO FILE FURTHER MOTIONS.

TO: KAREN P. HEWITT, UNITED STATES ATTORNEY, AND
CHRISTOPHER M. ALEXANDER, ASSISTANT UNITED STATES ATTORNEY:

PLEASE TAKE NOTICE that on January 7, 2008, at 2:00 p.m., or as soon thereafter as counsel may be heard, the defendant, Genaro Smith-Baltiher, by and through his attorneys, Joseph M. McMullen and Federal Defenders of San Diego, Inc., will ask this Court to enter an order granting the motions *in limine* listed below.

MOTIONS *IN LIMINE*

Genaro Smith-Baltiher, the defendant in this case, by and through his attorneys, Joseph M. McMullen and Federal Defenders of San Diego, Inc., pursuant to the Amendments to the United States Constitution, the Federal Rules of Criminal Procedure, and all other applicable statutes, case law and local rules, hereby moves this Court for an order:

1. to exclude deportation documents;
2. to admit hearsay evidence offered by family members as to the birth of other family members relevant to Mr. Smith-Baltiher's derivative citizenship;
3. to prohibit evidence under Fed. R. Evid. 404(b) and 609 evidence;
4. to exclude witnesses (A-file Custodian);
5. to allow attorney-conducted *voir dire*;
6. to prohibit witnesses from referring to Mr. Smith-Baltiher as "the alien;"
7. to produce grand jury transcripts;
8. to suppress the deportation hearing audiotape or transcript;
9. to preclude evidence of reinstatements; and
10. to allow leave to file further motions.

These motions are based upon the instant motions and notice of motions *in limine*, the attached statement of facts and memorandum of points and authorities, and any and all other materials that may be adduced at the time of the hearing on these motions.

Respectfully submitted,

/s/ Joseph M. McMullen

Dated: December 22, 2007

JOSEPH M. McMULLEN
Federal Defenders of San Diego, Inc.
Attorneys for Mr. Smith-Baltiher